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Rick Thompson  
**Interim Executive  
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**Member**

Sonny Watson  
**Member**

## **State Ethics Commission**

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### **MEMORANDUM**

DATE: April 3, 2006

RE: State Ethics Commission Rules

The Ethics in Government Act was amended effective January 9, 2006. New rules have not yet been promulgated but are in the process of being drafted, and therefore these posted rules may not encompass the amendments to the Act effective in 2006.

# **RULES OF THE STATE ETHICS COMMISSION**

## **CHAPTER 189-1 ORGANIZATION**

### **TABLE OF CONTENTS**

189-1-.01	Membership and Officers
189-1-.02	Appearances Before Commission by Prior Members
189-1-.03	Mailing Address
189-1-.04	Meetings to be Held
189-1-.05	Quorum Requirements for Official Action

#### **189-1-.01 Membership and Officers**

- (1) The Commission is composed of five members. The membership of the Commission is appointed as follows: Three members, not more than two of whom are from the same political party, are appointed by the Governor, two for terms of three years and one for a term of two years; one member is appointed by the Lieutenant Governor for a term of four years; and one member is appointed by the Speaker of the House of Representatives for a term of four years. The initial members take office on March 2, 1987, and upon the expiration of a member's term of office, a new member, appointed in the same manner as the member whose term of office expires, will serve for a term of four years and until the member's successor is duly appointed and qualified. Members of the Commission will not serve more than one complete term of office.
- (2) The Commission has a Chairperson whose term is one year, and a Vice-Chairperson whose term is one year, said officers are elected by majority of the members of the Commission, on or before March 1 each year to begin service on March 1.

Authority O.C.G.A. § 21-5-4. Administrative History. Original Rule entitled "Membership and Officers" was filed on April 9, 1987; effective April 29, 1987.

#### **189-1-.02 Appearances Before Commission by Prior Members**

No former member or employee of the State Ethics Commission shall, after the termination of his or her service on or employment with the Commission, act as agent or attorney for any person or entity, other than the State of Georgia, by making any formal or informal appearance, or by making any oral or written communication with the intent to influence a decision of the Commission, until at least two years have elapsed since the termination of his or her service on or employment with the Commission.

Authority O.C.G.A. § 21-5-6. Administrative History. Original Rule entitled "Appearances Before Commission by Prior Members" was filed on April 9, 1987; effective April 29, 1987

Adopted: June 29, 2001  
Filed: July 19, 2001  
Effective: August 8, 2001

**189-1-.03 Mailing Address**

The mailing address of the State Ethics Commission is 8440 Courthouse Square East, Suite C, Douglasville, Georgia 30134, or other address as designated by the Commission. Any correspondence or papers should be filed with the Commission at this address.

**189-1-.04 Meetings to be Held**

The Commission will meet on the last Friday of every month at 10:00 a.m.; however, it is within the discretion of the chairman, or whenever any two members request, to change the date or time of such meeting or call additional meetings provided adequate notice is given to the Commission members and the public in accordance with the Open Meetings Law.

**189-1-.05 Quorum Requirement for Official Action**

Three members of the Commission, when all three participate in the hearing, matter or meeting, shall constitute a quorum of the Commission. Any member who recuses shall not be counted towards this quorum requirement, nor shall any member any recuses be counted as present as to the particular matter under consideration. All official action can be taken by the Commission only with a quorum present. The vote of at least a majority of the members present at any meeting at which a quorum is present is necessary for any action to be taken by the Commission. No vacancy in the membership of the Commission impairs the right of a quorum to exercise all rights and perform all duties of the Commission.

## CHAPTER 189-2

### PRACTICE AND PROCEDURE

#### TABLE OF CONTENTS

189-2.01	Definitions	189-2-.06	Rules of Procedure for Regular Commission Meetings
189-2.02	Administrative Declaratory Rulings	189-2-.07	Investigations and Hearings on Required Reports or Documents
189-2.03	Complaints	189-2-.08	Disposition of Cases
189-2.04	Initiation of Investigations by the Commission	189-2-.09	Civil Penalties Imposed by the Commission
189-2.05	Contested Cases; Notice; Hearing; Record		

#### **189-2-.01      Definitions**

The following words and terms as used in these rules shall have the meaning hereinafter ascribed to them:

- (a) “Commission” – the State Ethics Commission of the State of Georgia.
- (b) “Complainant” – a person who files a written complaint alleging a violation of one or more laws under the jurisdiction of the State Ethics Commission.
- (c) “Consent Order” – a written document wherein the State Ethics Commission and the Respondent agree and consent to terms which may include admissions of violations by the Respondent; findings of fact; conclusions of law; imposition of civil penalties; late filing fees; and/or administrative fees; remedial actions to be taken; oral or written statements to be made or issued; prohibition of actual or threatened violations; cease and desist language; and the ordering of actions necessary to correct cited deficiencies. Consent orders must be signed by the Respondent and received by the Commission staff not later than two (2) days prior to the date the case is scheduled to be heard before the Commission, unless the Executive Secretary has approved an extension of time.
- (d) “Contested Case” – a proceeding in which the legal rights, duties, or privileges or a party are required by law to be determined by the State Ethics Commission after an opportunity for a hearing.
- (e) “End Recipient” – the party paid for providing goods or services to benefit a candidate, officeholder, or campaign committee regardless of whether such payment is arranged, passed through, or paid by a third party or agent for the candidate, officeholder, or campaign committee.
- (f) “Hearing” – a proceeding before the Commission or its duly appointed hearing officer for either the consideration of a modification or a change in existing rules, or for an adjudication of issues presented in a contested case, at which all parties at interest are

afforded an opportunity to present testimony, documentary evidence and arguments, as to the matter under consideration.

- (g) “Hearing Officer” – an individual appointed by the Commission for the purpose of presiding over a hearing as herein defined.
- (h) “Non-Candidate Campaign Committee” – any individual, business, partnership, committee, association, corporation, labor organization, political action committee, political party, or any other organization, group, or person, whether located within or outside the State of Georgia, who accepts contributions for, makes contributions to, or makes expenditures (1) on behalf of candidates seeking to be elected to municipal, county, or state office in Georgia; (2) seeking or opposing the recall of a public officer holding such elective office in Georgia; and/or (3) designed to bring about voter approval or rejection of a proposed constitutional amendment, a statewide referendum, or a proposed ballot question in any county or municipal election.
- (i) “Notice of Hearing” – a written statement of the substance of a specific charge alleging violation of the statute, rule, or regulation to be considered at a hearing to the person or party affected thereby, or of the substance of a proposed rule to be considered, which will afford actual notice to all interested persons. Notice shall be given in accordance with the Administrative Procedure Act (O.C.G.A. § 50-13-1 et seq.).
- (j) “Party” or “Party at Interest” – each person or agency named or admitted as a party or properly seeking and entitled as a right to be admitted as a party.
- (k) “Person” – an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.
- (l) “Preliminary Hearing” – a proceeding before the Commission or its duly appointed hearing officer for the purpose of deciding if there are reasonable grounds to believe that the Ethics in Government Act or other statute under the jurisdiction of the Commission has been violated, or if there are reasonable grounds to believe there has been a failure to comply with any rule or regulation promulgated by the Commission, and if the matter should be set down for “Hearing” for the purpose of determining whether a violation of the Ethics in Government Act or other statute within the jurisdiction of the Commission and whether any sanctions should be imposed should a violation be found. This term also specifically includes hearing held pursuant to the issuance of an Administrative Subpoena.
- (m) “Respondent” – a person against whom a complaint is filed or who has been added as such by the Commission at a preliminary hearing based on a finding of reasonable grounds to believe that a violation has occurred; or a person who has been named a Respondent by the Commission by virtue of a finding of probable cause to open an investigation.
- (n) “Rule” – any regulation, standard, or statement of general or particular applicability that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of the State Ethics Commission.

**189-2-.02 Administrative Declaratory Rulings.**

- (1) Availability of Declaratory Ruling. Any person whose legal rights have been interfered with or impaired by the application of any statutory provision or any rule or order of the Commission may petition the Commission and request a declaratory ruling thereon. The Commission will not render advisory opinions or resolve questions that become moot or take any other action hereunder except with respect to cases upon which a superior court would be required to act under the Georgia declaratory judgment statutes as construed by the appellate courts of Georgia.
- (2) Form of Petition. Each such petition shall be filed with the Commission in writing and shall state:
  - (a) the name and post office address of the petitioner,
  - (b) the full text of the statute, rule, order upon which a ruling is requested,
  - (c) a paragraph statement of all pertinent and existing facts necessary to a determination of the applicability of the quoted statute or rule;
  - (d) petitioner's contention, if any, as to the aforesaid applicability with citations of legal authorities, if any, that authorize, support, or require a decision in accordance therewith,
  - (e) a statement setting forth in detail the petitioner's interest in the matter and why and how the petitioner is uncertain or insecure with respect to his rights. The petition shall be verified under oath by, or in proper behalf of, the petitioner.
- (3) Proceedings on Petition. If the Commission shall determine that a decision can be rendered on the face of the petition without further proceedings, it shall render a summary decision thereon. Otherwise, all parties known by the Commission to have a legal interest in the matter shall be notified and given an opportunity to be heard at an informal hearing.
- (4) Informal Request for Interpretation and Rulings. The provisions of this Rule shall not be construed to preclude:
  - (a) Any person from requesting the Commission to interpret or otherwise rule upon the applicability of any pertinent statute or rule informally by personal appearance before the Commission, by letter or by telegram to the Commission; or
  - (b) The Commission from acting upon any such request whenever and however it deems appropriate, or from issuing any interpretative ruling without petition therefore.
- (5) Any request presented in any manner other than in accordance with the provisions of this Rule shall not be deemed to be filed as a Petition for Declaratory Ruling but shall be deemed an informal request for interpretation or ruling and shall be acted on as such.

**189-2-.03 Complaints**

- (1) Form of Complaint. All complaints to be considered by the Commission shall be filed in writing with the Commission and shall contain the following:
  - (a) The name and address of the person or persons who file the complaint.
  - (b) The sworn verification and signature of the complainant.
  - (c) The name and address of the party or parties against whom the complaint is filed, and if any such party is a candidate, the office being sought.
  - (d) A clear and concise statement of the facts upon which the complaint is based along with an allegation that such facts constitute one or more violations of law under the jurisdiction of the Commission.
  - (e) A general reference to the statutory provision(s) of the Ethics in Government Act, Vendor Gift Disclosure Law, or any other statute within the jurisdiction of the Commission allegedly violated.
  - (f) Any further information which might support the allegations in the complaint including, but not limited to, the following:
    1. The name and address of all other persons who have firsthand knowledge of the facts alleged in the complaint;
    2. Any documentary evidence that supports the facts alleged in the complaint.
- (2) Preliminary Action on the Complaint. Upon receipt of a complaint, the Commission staff shall send a copy of the complaint to the respondent affording an opportunity to respond to the complaint within fourteen (14) days in writing if desired. Responses or other documents submitted by the Complainant or Respondent to the Commission after the fourteen-day period may be disregarded by the Commission or staff during the preliminary investigation or at the preliminary hearing.
- (3) Defective Complaint. Upon receipt of a written complaint which does not conform to the requirements of paragraph (1) of this Rule, the Executive Secretary of the Commission shall by letter acknowledge receipt of the complaint and advise the complainant of the defect in the complaint and that the complaint will not be considered by the Commission unless the defect is corrected.
- (4) Preliminary Investigation of Complaint. The Commission staff shall conduct a preliminary investigation of any non-defective complaint and recommend as a part of its on-going investigation what further action, if any, should be taken. If the Commission staff should determine that there is no basis for proceeding on a complaint under the Ethics in Government Act or any other statute within the jurisdiction of the Commission, then the staff shall so notify the Complainant and administratively dismiss the complaint without requiring any formal action by the Commission.
- (5) Preliminary Hearing. Following the preliminary investigation the complaint shall be scheduled for a preliminary hearing before the Commission (or Hearing Officer if applicable) and the Complainant and Respondent shall be notified of the scheduled hearing date. At such hearing, the Commission shall determine whether there are reasonable grounds to believe that a violation has occurred. If the Commission finds no

reasonable grounds to believe a violation has occurred, the complaint shall be dismissed, subject to being reopened upon discovery of additional evidence or relevant material.

- (6) Consideration of the Complaint. If at the preliminary hearing it is determined that further action is warranted, the Commission shall proceed as provided by law in contested cases. However, if the entry of an order to cease and desist from any and all violations is deemed a sufficient disposition of the complaint, or if it is determined that the complaint should be resolved by other action, the Commission may conclude any case at the preliminary hearing stage or later by the entry of such order. Nothing in this rule shall require the Commission to dispose of any matter in a single hearing nor shall this rule prevent the matter from being subject to further investigation by the Commission staff.

#### **189-2-.04 Initiation of Investigations by the Commission**

The Commission may initiate on probable cause on its own cognizance an investigation into suspected violations of laws or rules under its jurisdiction as it deems necessary. In such case, the procedures of Rules 189-2.03 (2), (4), (5), (6); 189-2-.05; and 189-2-.06 shall be followed in the investigation. The respondent shall be notified by the Commission staff in writing of the initiation of the investigation and of the basis for the finding of probable cause to open the investigation. The Commission staff shall not be required to file the Complaint form described in Rule 189-2-.03(1) nor to follow the procedures required under that Rule.

#### **189-2-.05 Contested Cases; Notice; Hearing; Record**

In any contested case, after the preliminary hearing has been completed and the matter has been scheduled for an administrative procedure act hearing, the Commission shall follow the rules adopted by the Commission and shall comply with the provisions of the Georgia Administrative Procedure Act in the matter and in hearing the contested case (O.C.G.A. § 50-13-1 et seq).

#### **189-2-.06 Rules of Procedure for Regular Commission Meetings**

Regular meetings of the State Ethics Commission shall be conducted, to the extent practicable, in accordance with Robert's Rules of Order, which are hereby adopted as the Rules of Procedure for conducting such meetings. The Chairman of the Commission, or the Commissioner acting in that capacity, shall have the authority to make rulings regarding procedural matters and issues coming before the Commission. A majority (of a quorum) of the Commission may alter, amend, or reverse any such procedural ruling. A copy of Robert's Rules of Order will be maintained by the Executive Secretary of the Commission and available at all regular meetings.

#### **189-2-.07 Investigations and Hearings on Required Reports or Documents**

Whenever the Commission staff is informed by a filing officer or determines independently that a candidate, public officer, or other person required to file a Financial Disclosure Statement, Campaign Contribution Disclosure Report, or any other document under the jurisdiction of the Commission, has failed to file or has failed to properly file any required report or document, the Commission staff will initiate enforcement action.



- (1) Administrative Subpoena. If the person does not comply with requirements of the law, or if it is otherwise deemed appropriate by the Commission staff, an Administrative Subpoena, signed by the Commission Chairman, and a Rule Nisi signed by the Executive Secretary, shall be served upon the person by mail commanding that the person attend a Commission meeting to explain the person's failure to comply with the law.
  - (a) If the person subpoenaed properly files, or otherwise complies, the Executive Secretary will review any document or other circumstances for compliance and may propose the terms of a consent order, or other disposition, for consideration by the Commission at a regular meeting.
- (2) Following the service of an Administrative Subpoena the Commission may thereafter direct the issuance of a Notice of Hearing under Rule 189-2-.05 unless the Commission determines that the Administrative Subpoena should be dismissed or resolved by consent order or other disposition without the conducting of a hearing in accordance with the Administrative Procedure Act.

#### **189-2-.08 Disposition of Cases**

After completion of appropriate proceedings, the Commission may:

- (1) Dismiss the case if no violation is found.
- (2) Conclude any case by the entry of an order to cease and desist from any and all violations.
- (3) Issue an Order finding one more more violations of law under the jurisdiction of the State Ethics Commission, and imposing civil penalties as provided by law, including but not limited to:
  - (a) Assessment of civil penalties in a dollar amount not to exceed the maximum authorized per violation times the number of violations found; and
  - (b) Ordering the filing or amending of any delinquent or deficient document or report, required to be filed by law under the jurisdiction of the State Ethics Commission and on a form or in the manner required by the Commission, within a certain time period with copies to be filed with the Commission; and
  - (c) Ordering such other actions as necessary to bring about compliance with the law, including prohibiting the actual or threatened commission of any conduct constituting a violation.
- (4) Suspend the hearing and report all preliminary findings to any prosecutorial authority for any action deemed appropriate.
- (5) Postpone findings and any possible penalty for rescheduling and consideration of the matter at a future meeting, and subject to the taking of any interim action suggested by the Commission as dispositive in lieu of further proceedings.

**189-2-.09      Civil Penalties Imposed by the Commission**

All civil penalties imposed by the Commission shall be made payable to the State Ethics Commission, and such funds shall be processed for delivery to the State Treasury.

# CHAPTER 189-3

## DISCLOSURE REPORTS

### TABLE OF CONTENTS

189-3-.01	Campaign Contribution Disclosure Reports
189-3-.02	Expenditures on Behalf of a Candidate or Campaign Committee
189-3-.03	Deferred Payment of Expenses
189-3-.04	Expenses Incurred through or by Third Parties
189-3-.05	Reimbursement of Expenses

#### **189-3-.01 Campaign Contribution Disclosure Reports**

- (1) Contributions. Contributions of \$101.00 or more, including contributions of lesser amounts when the aggregate amount from a contributor is \$101.00 or more for the calendar year in which the report is filed, shall be listed on each report as follows:
  - (a) For contributions by any individual list:
    1. the individual's name in alphabetical order by last name;
    2. the individual's occupation;
    3. the complete mailing address of the individual;
    4. the amount of the contribution;
    5. the date of receipt of the contribution;
    6. the individual's employer
  - (b) For contributions by any corporation, labor union, political action committee, or other organization or entity list:
    1. the contributor's name in alphabetical order;
    2. the contributor's complete mailing address;
    3. the corporate, labor union, or other affiliation of any political action committee if applicable;
    4. the amount of the contribution
    5. the date of receipt of the contribution
- (2) Common Source Contributions of less than \$101.00
  - (a) Separate contributions of less than \$101.00 which are knowingly received from a common source (members of the same family, firm, or partnership, or employees of the same company, firm, corporation or other association or group are considered a common source) must be aggregated and listed on campaign contribution disclosure reports. See the example on the following page.

**Contributions:**

Adams Family (Common Source)  
Ira and Meg Adams  
5 Anytown Road  
Anytown, GA 30000  
(two contributions each less than \$101.00)

**Cash Amount:**

\$180.00

Jones Co., Inc. (Common Source) 6/14/90 \$600.00  
10 Anytown Road  
Anytown, GA 30000  
(Contributions made by 26 employees –  
no single contribution over \$25.00)

- (b) The purchase of tickets for not more than \$25.00 each and for attendance at a fundraising event by members of the same family, firm, or partnership or employees of the same person shall not be considered to be contributions from a common source except to the extent that tickets are purchased as a block.
- (3) Expenditures. Expenditures of \$101.00 or more, including expenditures of lesser amounts when the aggregate amount to a recipient is \$101.00 or more for the calendar year in which the report is filed, shall be listed on each report as follows:
  - (a) the name of each recipient in alphabetical order by last name or by company name;
  - (b) the complete mailing address of the recipient;
  - (c) if recipient is an individual, list the occupation or place of employment;
  - (d) the amount of the expenditure;
  - (e) the general purpose of the expenditure with such detail as shows the expenditure is for a purpose lawfully authorized for campaign funds;
  - (f) the date of the expenditure
- (4) Campaign Contribution Disclosure Reports by Candidates Who File a Declaration of Intention to Accept Campaign Contributions but do not Qualify to Run for Office. If a person files a declaration of intention to accept campaign contributions but does not qualify to run for office, the following campaign contribution disclosure reports are required:
  - (a) Persons who would have been in a primary election must file: (1) The June 30 report, and (2) the December 31 final report of the year in which the election referred to in the declaration occurs. Any person who has excess contributions from the campaign must file a December 31 supplemental campaign contribution disclosure report each year thereafter until all contributions are expended as provided in the Act.
  - (b) Persons who would have been in a general or special election must file: (1) the October 25 and December 31 reports if the person would have been in a general election, and (2) the fifteen days before special election report and December 31 report if the person would have been in a special election.
- (5) Campaign Contribution Disclosure Reports by Non-Candidate Campaign Committees
  - (a) Contributions made to political parties or political action committees must be disclosed on campaign contribution disclosure reports the same as if those contributions had been made directly to candidates.

- (b) There are three instances in which a contributor is not required to file campaign contribution disclosure reports: (1) if the contributor's total contributions to all candidates for the calendar year does not exceed \$5,000.00 in the aggregate, or (2) if, regardless of the dollar amount involved, the contributor makes contributions to only one candidate during the calendar year, or (3) if the contributor is an individual who makes aggregate contributions of \$25,000.00 or less directly to candidates or the candidates' campaign committees in one calendar year. For purposes of making the preceding determination of amount the individual's contributions to political parties and to political action committees shall also be counted toward the \$25,000.00 aggregate annual amount.
- (c) A Recall Committee which supports or opposes a recall election files campaign contribution disclosure reports if any contributions are received or any expenditures are made.
- (d) A Committee which supports or opposes a proposed constitutional amendment or state-wide referendum files campaign contribution disclosure reports if any contributions are received or any expenditures are made.
- (e) A Committee which accepts contributions or makes expenditures to influence the vote on a local ballot questions in a county or municipality files campaign contribution disclosure reports if (1) the Committee received more than \$500.00 in contributions, or (2) if the Committee made expenditures totaling more than \$500.00.
- (f) Campaign contribution limits on contributions to candidates do not apply to independent expenditures made to influence candidate elections. An independent expenditure is an expenditure for a communication which expressly advocates the election or defeat of a clearly identified candidate but which is made independently of any candidate's campaign. However, an expenditure is "independent" only if it meets certain conditions. It must not be made with the cooperation or consent of, or in consultation with, or at the request or suggestion of any candidate or any of his or her agents or authorized committees. An expenditure which does not meet the above criteria for independence is considered a contribution which is subject to limits.
- (g) The chart on the following page indicates where reports are filed.

**WHERE TO FILE  
NON-CANDIDATE  
CAMPAIGN COMMITTEE REPORTS**

<b>Contributions*</b>	<b>Where to File Disclosure Reports</b>
To candidates for <i>state-wide offices and/or general assembly</i>	Secretary of State, Elections Division
To candidates for <i>county offices</i>	Elections Superintendent in the County of election**
To candidates for <i>municipal offices</i>	Municipal Clerk in the City of Election***
Supporting or opposing the <i>recall</i> of a <i>state-wide, general assembly, or county official</i>	<b>Original</b> with Secretary of State, Elections Division; <b>Copy</b> with Elections Superintendent in county of residence of the official.**
Supporting or opposing the <i>recall</i> of a <i>municipal official</i>	<b>Original</b> with Secretary of State, Elections Division; <b>Copy</b> with Municipal Clerk in the city of the residence of the official***
Supporting or opposing a proposed <i>Constitutional Amendment</i> and/or <i>state-wide referendum</i>	Secretary of State, Elections Division
Supporting or opposing a proposed <i>ballot question</i> in a <i>county election</i>	Elections Superintendent in the County of the Election*
Supporting or opposing a proposed <i>ballot question</i> in a <i>municipal election</i>	Municipal Clerk in the City of the Election***

- \* If supporting both State candidates and/or issues, as well as, local candidates and/or issues, file **an original report** with the Secretary of State Elections Division and a **DUPLICATE original report with the applicable county and/or city office.**
- \*\* In counties in which the county board of elections does not maintain an office open to the public during normal business hours for five days a week, reports are filed in the office of the Judge of Probate Court in the county of the election.
- \*\*\* In municipalities in which there is no municipal clerk, the reports are filed with the chief executive officer of the municipality.

(h) When to file campaign contribution disclosure reports.

- \* A Non-Candidate Campaign Committee supporting candidates or elected officials files campaign contribution disclosure reports on the same dates as the candidate(s) or official(s) it supports as illustrated below.

**FILING DATES  
NON-CANDIDATE CAMPAIGN COMMITTEE  
SUPPORTING CANDIDATES/PUBLIC OFFICIALS**

<b>SUPPORTING</b>	<b>FILING DATES</b>
Primary Election	March 31 June 30
Primary Runoff	6 days before the date of runoff election
General Election	September 30 October 25
Special Election	15 days before the date of Special Election
GENERAL Runoff or SPECIAL Runoff Election	6 days before the date of runoff election
FINAL	December 31 in year of election
An elected official in non-election years	June 30 and December 31 of every year following the year in which the election occurs
A former elected official with excess campaign funds	June 30 and December 31 of each year until all funds are disbursed
An unsuccessful candidate with excess campaign funds	June 30 and December 31 of each year until all funds are disbursed
An unsuccessful candidate who receives contributions to retire debt	December 31 of each year until all debts are satisfied

- \* A Committee which supports or opposes a recall election files campaign contribution disclosure reports as follows:

**FILING DATES  
NON-CANDIDATE CAMPAIGN COMMITTEE  
SUPPORTING OR OPPOSING  
RECALL ELECTION**

1 <sup>st</sup> Report	Initial report filed within 15 days of the date when the official recall petition forms were issued to the sponsors
2 <sup>nd</sup> Report	Filed 45 days after the filing of the initial report
3 <sup>rd</sup> Report	Filed within 20 days after the election superintendent certifies legal sufficiency or insufficiency of a recall petition
4 <sup>th</sup> Report	Filed prior to December 31 of the year in which the recall election is held, or if recall election is not held, a final report filed prior to December 31 of any year in which campaign committee accepts contributions or makes expenditures

- \* A Committee which supports or opposes a proposed constitutional amendment, state-wide referendum, or any county or municipal ballot question files campaign contribution disclosure reports as follows:

**FILING DATES  
NON-CANDIDATE CAMPAIGN COMMITTEE SUPPORTING OR OPPOSING  
A PROPOSED CONSTITUTIONAL AMENDMENT, STATE-WIDE  
REFERENDUM, OR ANY COUNTY OR MUNICIPAL BALLOT QUESTION**

1 <sup>st</sup> Report	15 days prior to the date of the election
2 <sup>nd</sup> Report	Final report prior to December 31 in the year in which the election is held

**189-3-.02 Expenditures on Behalf of a Candidate or Campaign Committee**

When a person pays for or provides goods, services, a gift, subscription, membership, loan, forgiveness of debt, extension of credit, advance or deposit of money, or anything of value on behalf of a candidate or a campaign committee for the purpose of influencing an election, it is a “contribution” and is subject to the contribution limits (except as otherwise provided in O.C.G.A. § 21-5-41(c) and 21-5-42(c)). The contribution shall be reported on the campaign contribution disclosure report for the time period in which it occurs.



**189-3-.03 Deferred Payment of Expenses**

Anything of value which is received by, provided to, furnished to, or conveyed to or on behalf of a candidate or a campaign committee is required to be reported on the campaign contribution disclosure report for the time period in which the thing of value is provided. If the goods or services have not been paid for at the time the report is filed, an explanatory note so stating shall be prominently set forth on the report. All extensions or advancements of credit are subject to contribution limits except as otherwise provided in O.C.G.A. § 21-5-41(c) and 21-5-42(c).

**189-3-.04 Expenses Incurred through or by Third Parties (See the example provided herein.)****(1) Payments by a Credit Card.**

- (a) If a candidate or campaign committee pays for goods or services directly or indirectly by using a credit card merely as a conduit through which funds are paid to an end-recipient, the expenditure must be itemized and shall be shown on the campaign contribution disclosure report in the time period it is incurred.
- (b) The campaign contribution disclosure report shall identify the name of the person to whom the credit card was issued, the name of the credit card company, as well as each end-recipient, and shall include the following:
  - 1. name of the person to whom the credit card was issued;
  - 2. name of the credit card company and complete mailing address;
  - 3. lump sum amount paid to the credit card company;
  - 4. name of each end-recipient and occupation if an individual;
  - 5. complete mailing address of each end-recipient;
  - 6. amount of the payment to each end-recipient;
  - 7. description of the goods or services provided by each end-recipient with sufficient detail to identify it as a lawfully authorized use of campaign funds

**(2) Payments through or by a Third Party**

- (a) Campaign expenditures made by a third party on behalf of a candidate or campaign committee must be itemized to identify the actual end recipient of the expenditure and shall be reported on the campaign contribution disclosure report for the time period during which the expense is incurred when the third party making the expenditure or the actual end recipient of the expenditure is under the management, direction or control of the candidate or campaign committee regarding the performance of its work.

Campaign expenditures made by third parties on behalf of a candidate or campaign committee need not be itemized to identify the actual end recipient of the expenditure but shall be reported as otherwise required when such third parties as well as the actual end recipients of the expenditure are independent contractors or otherwise not under the management, direction or control of the candidate or campaign committee. An individual or corporation shall be considered an independent

contractor for the purposes of this section when it is retained by a candidate or campaign committee and, while the individual or corporation may follow the candidate's or campaign committee's desires as to results of work, the candidate or campaign committee does not manage, direct or control such individual's or corporation's performance of their work. If the third party is a consulting firm, media placement firm, or advertising agency, the disclosure shall include the name of at least one principal in the firm. Where applicable, the principal so disclosed shall be the individual most responsible for the provision of services to the candidate or campaign committee.

- (b) The campaign contribution disclosure report shall identify the third party, as well as, each end-recipient and shall include the following:
  - 1. name of the third party and occupation if an individual;
  - 2. complete mailing address of the third party;
  - 3. lump sum amount paid to the third party;
  - 4. name of each end-recipient and occupation if an individual;
  - 5. complete mailing address of each end-recipient;
  - 6. amount paid to each end-recipient;
  - 7. description of the goods or services provided by each end-recipient with sufficient detail to identify it as a lawfully authorized use of campaign funds

Authority O.C.G.A. § 21-5-6. Administrative History. Original Rule entitled "Expenses Incurred through or by Third Parties" became effective March 13, 2000; readopted June 29, 2001, effective August 8, 2001; readopted with an amendment of subsection (2) on August 9, 2002; effective September 17, 2002.

## **189-3-.05**

### **Reimbursement of Expenses**

- (1) If a candidate or a campaign committee reimburses a person directly or indirectly for goods, services, or anything of value which was paid for on behalf of the candidate or campaign committee, it must be itemized and shall be reported as an expenditure on the campaign contribution disclosure report for the time period in which the reimbursement is made. All extensions or advancements of credit are subject to the contribution limits except as otherwise provided in O.C.G.A. § 21-5-41(c) and 21-5-42(c).
- (2) The campaign contribution disclosure report shall identify the person receiving reimbursement, as well as, each end-recipient and shall include:
  - (a) name, and occupation if an individual, of the person receiving reimbursement;
  - (b) complete mailing address;
  - (c) lump sum amount paid;
  - (d) name, and occupation if an individual, of each end-recipient;
  - (e) complete mailing address of each end-recipient;
  - (f) amount paid to each end-recipient;

- (g) description of the goods or services provided by each end-recipient with sufficient detail to identify it as a lawfully authorized use of campaign funds.

## **CHAPTER 189-4 CAMPAIGN COMMITTEES**

### **TABLE OF CONTENTS**

189-4-.01      Registration of a Campaign Committee

**189-4-.01      Registration of a Campaign Committee**

- (a) Any person who makes contributions to, accepts contributions for, or makes expenditures on behalf of (1) candidates seeking to be elected to municipal, county, or state office in Georgia, or (2) for the purpose of seeking or opposing the recall of a public officer holding such elective office in Georgia, or (3) for the purpose of bringing about voter approval or rejection of a proposed constitutional amendment, a statewide referendum, or a proposed ballot question in any county or municipal election, and any independent committee, shall file a registration showing the name of the person or committee registering, and the names and addresses of the chairman and treasurer thereof with the Secretary of State before engaging in any of the activities described herein.
- (b) Individuals who make contributions directly to candidates or the candidates' campaign committees which do not exceed \$25,000.00 in the aggregate in one calendar year are not required to register as described in subsection (a).
- (c) All other persons making contributions and expenditures to or on behalf of candidates which do not exceed \$5,000.00 in the aggregate in one calendar year are not required to register as described in subsection (a). For purposes of making the preceding determination of amount, contributions to political parties and political action committees shall also be counted toward the \$5,000.00 aggregate annual amount.

## **CHAPTER 189-5**

### **DISPOSITION OF CONTRIBUTIONS**

#### **TABLE OF CONTENTS**

189-5-.01	Disposition of Contributions Without Limitation
189-5-.02	Choosing Option of Separate Accounting
189-5-.03	Separate Bank Accounts Permitted if Separate Accounting is Chosen
189-5-.04	If Separate Accounting is not Chosen
189-5-.05	Contributions Allowed for the Current Election Cycle
189-5-.06	Specifying the Election for which a Contribution is Accepted
189-5-.07	Contributions Remaining Unspent after the Election for which they were received has been held
189-5-.08	Contributions Received for an Election which does not Occur or for which a Candidate does not Qualify
189-5-.09	Contributions which must be Returned to Contributors
189-5-.10	Deadline for Refunds and When Interest on Refunds Must be Distributed to Contributors
189-5-.11	Undeliverable Refunds
189-5-.12	Paying Off Campaign Debts

#### **189-5-.01      Disposition of Contributions Without Limitation**

O.C.G.A. § 21-5-33 governs the proper disposition of campaign contributions. One of the specifically permitted uses for such funds is contained in O.C.G.A. § 21-5-33(b)(B), which states “except as otherwise provided in subparagraph (D) of the paragraph, for transferral without limitation to any national, state, or local committee of any political party or to any candidate.” Contributions to any candidate or candidate’s campaign committee may not exceed contribution limits, and such contributions are subject to all other restrictions or prohibitions contained in the Ethics in Government Act or other applicable law.

#### **189-5-.02      Choosing Option of Separate Accounting**

Candidates who wish to accept campaign contributions for more than one election at a time must separately account for such campaign contributions and must file a written “Choosing Option of Separate Accounting” form with the Secretary of State prior to accepting contributions for any election other than their next upcoming election.

#### **189-5-.03      Separate Bank Accounts Permitted if Separate Accounting is Chosen**

Those who elect the separate accounting option may also open a separate campaign depository account for each election for which contributions are accepted beyond their next upcoming election.

**189-5.04 If Separate Accounting is not Chosen**

If separate accounting is not chosen then contributions may NOT be accepted for any election beyond the candidate's next upcoming election.

**189-5-.05 Contributions Allowed for the Current Election Cycle**

Contributions for elections beyond the current election cycle may not be accepted.

**189-5-.06 Specifying the Election for which a Contribution is Accepted**

Recipients of campaign contributions must specify on their campaign contribution disclosure reports which election a contribution has been accepted for. If no election is specified or if the recipient has not chosen the option of separately accounting for contributions, any such contribution shall be presumed to have been accepted for the election on or first following the date of the contribution.

**189-5-.07 Contributions Remaining Unspent After the Election for which they were received has been held**

At the conclusion of an election, contributions that are left over may be spent on subsequent elections in the same election cycle. If there are not remaining elections in the election cycle, or even if there are remaining elections but the candidate will not be on the ballot for any election remaining in the election cycle, all contributions left over after payment of campaign expenses must be disposed of following the law governing "excess contribution" in O.C.G.A. § 21-5-33.

**189-5-.08 Contributions Received for an Election which does not Occur or for which a Candidate does not Qualify**

Contributions received for an election beyond the candidate's next upcoming election, may be placed in a separate campaign depository account and may not be spent or encumbered until the preceding election has been held and it is determined that the candidate will be on the ballot for the election for which the separately accounted for contributions were received.

**189-5-.09 Contributions which must be Returned to Contributors**

If the candidate has accepted contributions which were separately accounted for and held pending the results of a preceding election, such contributions must be returned in full to the original contributors thereof if either of the following are true:

- 1) the election for which the contributions were accepted will not be held, or
- 2) the candidate for whom the contributions were accepted is not on the ballot in the election for which the contributions were accepted.

**189-5-.10 Deadline for Refunds and when Interest on Refunds must be Distributed to Contributors**

Any refunds which are required must be made within thirty (30) days of any determination that the election for which the contributions were accepted will not be held, or within thirty (30) days

of an event which determines that the candidate for whom the contributions were accepted will not be on the ballot in the election for which the contributions were accepted. If refunds are from non-interest bearing accounts, such refunds shall be made without interest. However, in the event the contributions to be refunded have been maintained in an interest bearing account, all interest generated thereon shall be distributed pro rata along with full refunds to each of the original contributors.

#### **189-5-.11 Undeliverable Refunds**

Any refund which cannot be delivered to the original contributor due to a lack of forwarding address shall be treated as excess funds and only expended in a manner authorized for disposition of excess funds.

#### **189-5-.12 Paying Off Campaign Debts**

Candidates who have elected the option of separate accounting may not use contributions designated for a future election to pay debts from a prior election, unless and until the election for which the separately accounted for contributions were designated has been held, and campaign obligations remain outstanding from a prior election.

# RULES (AMENDED) OF THE STATE ETHICS COMMISSION

## CHAPTER 189-6 CAMPAIGN CONTRIBUTIONS

### TABLE OF CONTENTS

189-6-.01	Receiving Contributions to Retire Debt
189-6-.02	Contributions for Candidates Without Primaries
189-6-.03	Maximum Allowable Contribution by Corporation
189-6-.04	Maximum Allowable Contribution by Political Committees

#### **189-6-.01      Receiving Contributions to Retire Debt**

If following a candidate's last election in an election cycle, the candidate's funds are insufficient to pay all campaign obligations incurred prior to the election, the candidate may accept contributions which will be attributed to the contribution limits for such last election. However, contributions attributable to such last election may not be accepted in excess of the amount necessary to retire the campaign debt remaining from such last election.

**EXAMPLE:** Candidate A has a \$3,500 campaign debt after her last election in an election cycle. Candidate A (whose contribution limit for the election was \$2,000) wishes to accept contributions from contributors W, X, Y, and Z and attribute such contributions to the contribution limits for the last election from which the campaign debt remains.

Previously, the following contributions had been made:

W – Zero	Y - \$500
X - \$1,000	Z - Zero

W may contribute \$2,000 toward retiring the campaign debt. X may contribute \$1,000 toward retiring the campaign debt (\$1,000 of X's limit had been used before the election). After receiving these contributions Candidate A goes to Y for a contribution. Y may contribute \$500 to finally retire the campaign debt. (Even though Y had previously given only \$500 before the election, no more than \$500 may be given because contributions attributable to the previous election may not be accepted beyond the amount necessary to retire the campaign debt remaining from such last election in the election cycle.)

All the listed contributions from W, X, and Y may be attributed to the contribution limits for the last election in the election cycle. Z may not contribute any amount which would be attributable to the previous election because the post-election contributions from W, X, and Y retired the campaign debt.



**189-6-.02 Contributions for Candidates without Primaries**

Any person who will be on the general election ballot as a candidate in an election preceded by a primary election may accept contributions designated for such primary election even though such candidate does not appear on the primary ballot.

**189-6-.03 Maximum Allowable Contribution by Corporation**

No corporation shall make, for any election, contributions to any candidate which, when aggregated with contributions to the same candidate for the same election from any affiliated corporations exceed the per election contribution limits for such candidate set out in O.C.G.A. § 21-5-41.

EXAMPLE: Candidate Blue has a contribution limit of \$2,000 for his next election. Corporation A, which is a sister corporation of Corporation B, gives Candidate Blue a \$2,000 contribution for such election. Corporation B, as an “Affiliated Corporation” as defined by O.C.G.A. § 21-5-40(2), may not give any contribution to Candidate Blue for such election, because no more than one maximum contribution may be given to a single candidate for any one election by any collection of affiliated corporations.

**189-6-.04 Maximum Allowable Contribution by Political Committees**

No political committee shall make, for any election, contributions to any candidate which, when aggregated with contributions to the same candidate for the same election from any affiliated political committees exceed the per election contribution limits for such candidate as set out in O.C.G.A. § 21-5-41.